

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Shanda Mathis,

Petitioner ,

-V-

**Case No. 2:07-cv-01161
Judge Michael H. Watson**

Franklin County Children Services, et al.,

Respondents.

ORDER

This case concerns the custody of petitioner's minor children. The U.S. Magistrate Judge issued a comprehensive report and recommendation (Doc. 21) on April 14, 2008, recommending that the Court grant the motions to dismiss filed by respondent Franklin County Children Services (Doc. 8) and Ohio Youth Advocate Program (Doc. 9). Moreover, the Magistrate Judge recommended that the Court deny as moot petitioner's motion for leave to file an amended writ (Doc. 12). The Magistrate Judge concluded that this Court lacks jurisdiction under 28 U.S.C. § 2254 to review a state court judgment involuntarily terminating petitioner's parental rights. Report and Recommendation (Doc. 21) at 6-7.

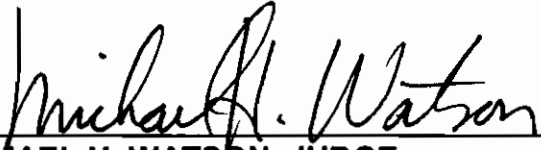
Petitioner filed objections to the report and recommendation on April 24, 2008 (Doc. 24). In essence, petitioner disagrees with the Magistrate Judge's legal conclusion concerning the scope of federal habeas jurisdiction.

The Court has reviewed *de novo* those portions of the report and recommendation to which petitioner objects, and finds petitioner's objections to be without merit. Specifically, the Magistrate Judge correctly ruled that the Court lacks jurisdiction in this matter because petitioner's children are not "in custody" for purposes of § 2254. The Magistrate Judge's recommendation is consistent with the decision of the U.S. Supreme Court in *Leham v. Lycoming County Children's Services*, 458 U.S. 502, 510 (1982), which reached the same conclusion. Accordingly, the Court **OVERRULES** petitioner's objections, **ADOPTS** the Magistrate Judge's report and recommendation in its entirety, and **GRANTS** respondents' motions to dismiss for lack of jurisdiction (Docs. 8 and 9). The Court additionally **DENIES AS MOOT** petitioner's motion for leave to file an amended writ. Lastly, the Court **DENIES AS MOOT** petitioner's motion for writ of mandamus (Doc. 27) and motion for stay of state court proceedings (Doc. 28).

The Clerk shall enter a final judgment in favor of respondents, and against petitioner, dismissing this action for lack of jurisdiction.

The Clerk shall remove Doc. 8, 9, 12, 27, and 28 from the Court's Civil Justice Reform Act motions list.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT